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06/29/2006

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SUITE 1100

WASHINGTON, DC 20001

EXAMINER

WEBB, JAMISUE A

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-8, 13-16, 52-82 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. With respect to Claims 1, 13, 68 and 69: the phrase “the server which exchanges said request with at least a first entity” is indefinite. In order for there to be an exchange, there must be multiples items/things that are exchanged. Exchange is when you give someone something and get something else in return. The server gives the entities something, but it is unclear to the examiner what is being given in return. What item does the server exchange the request for?

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 5-8, 13-16, 52-58, 60, 61, 63, 65, 68, 69, 71 and 73-82 are rejected under 35 U.S.C. 102(e) as being anticipated by Borgeson et al (US 2003/0236739).

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6. With respect to Claims 1, 13, 68, and 69: Borgeson discloses the use of a common carrier system comprising:

- a. A plurality of entities registered with the system, each having a computer storage (see abstract, Figure 4A Step 9);
- b. A server at a second entity that receives information from the entities (100) and provides a user interface (Figure 2, with corresponding detailed description) which allows a user to:
 - i. Create an electronic booking request (Figure 4A, Steps 1-3 and 17)
 - ii. Submit the electronic booking request to the server which then sends the request to a plurality of carriers (Steps 6-9, Figure 4A) and
 - iii. The requests include origin and destination information; therefore the examiner considers this to be routing information. (See Figures 5-7)
 - iv. To receive confirmation of the booking request from at least one of the carriers, from the server (See Figure 4B, Steps 14-17 and 26-28).

7. With respect to Claim 5: Borgeson discloses in Step i3 and 5, that the customer enters basic shipment data as well as detailed shipment data. The type of information that is in the shipment data is considered to be non-functional descriptive data. A system claim is in essence an apparatus claim, and is limited to the structural limitations of the system, therefore due to the fact that what type of information is entered for the shipment data, the system remains unchanged, and functions the same way, therefore Borgeson anticipates claim 5.

8. With respect to Claim 6: Borgeson discloses the bidding of the carriers is being done, then in steps 17-19, selects a carrier, then sends the information to the server, the examiner

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considers selecting a carrier and sending the information to the server, to be a form of submitting a booking request. The bidding is done in the previous steps, therefore the negotiating of cost is done before the request is sent.

9. With respect to Claim 7: If Steps 1-3, the initial contact, is considered to be the sending the bidding request, then the negotiation of cost is done after this step (See Figure 4A).

10. With respect to Claim 8: Borgeson discloses a user. However, whether the user is a new customer or an old customer is deemed to be nonfunctional descriptive material and is not functionally involved in the system recited. The system configured to send booking requests would be the same and perform the same functions whether the user is a new customer of the first entity or an old customer. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed.Cir.1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

11. With respect to Claim 14: See Step 31.

12. With respect to Claims 15 and 16: See Figures 4B and 7, with corresponding detailed description.

13. With respect to Claims 52, 53, 73 and 74: See figures 5-9 with corresponding detailed description. The requests include origin and destination information, therefore the examiner considers this to be routing information.

14. With respect to Claims 54 and 82: Borgeson discloses the booking request includes basic information, as well as detailed information, the examiner considers this to be shipping instructions, due to the fact that the user can input when needed by, therefore the examiner considers this to be shipping instructions.

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15. With respect to Claims 55-57: the system of Borgeson discloses a user interface, which allows a user to send messages back and forth with the ship owner. However, the specific type of information in the request or bid, is deemed to be nonfunctional descriptive material and is not functionally related to the system itself. The system of Borgeson is fully capable of sending these types of messages.

16. With respect to Claims 61, 63 and 65: See Figures 4A and 4B.

17. With respect to Claims 58, 60 and 71: See Figure 2 with corresponding detailed description.

18. With respect to Claim 75: Borgeson discloses the user and the carrier entering into a contract, and does not specifically disclose the request comprising a carrier booking number. However, the specific type of information that is contained in the request, such as the carrier booking number, is deemed to be nonfunctional descriptive material and is not functionally involved in the system or the steps recited. The system being capable of sending a booking request would be performed the same regardless of what type of information is on the request. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed.Cir.1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

19. With respect to Claim 76: See Step 31, and Figure 9.

20. With respect to Claim 77: Borgeson discloses the use of a system that is configured to store and keep track of bids (booking requests). The system of Borgeson allows a user to modify bids, therefore it is the examiner's position that the system of Borgeson is fully capable of allowing a user to modify a booking request after a container has been moved.

21. With respect to Claims 78-81: See Steps 7-9.

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claims 59, 62, 64, 66, 67, 70 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borgeson.

24. As disclosed above for Claims 1 and 68, Borgeson discloses the use of electronic communication, but does not disclose expressly that the information is in EDI format, or by the use of a pop-up dialogue box. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the booking request of Borgeson be in the form of an EDI or pop-up dialogue because Applicant has not disclosed the having the communication be either EDI or a pop-up dialogue box, is used for a particular purpose or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with any form of electronic communication because it results in a message (booking request) being sent over a network. Therefore it would have been an obvious matter of design choice to modify Borgeson to obtain the invention as specified in Claims 59, 62, 64, 66, 67, 70 and 72.

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25. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borgeson in view of Altendahl et al. (6,970,825).

26. With respect to Claim 2: Borgeson discloses the use of a booking request, however fails to disclose the use of the booking request being a template that was created by a user. Altendahl discloses the use of a planning engine for a parcel shipping system where requests are made using a template, and the template is created using a template builder (see abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Borgeson, to have the bid request use a template, as disclosed by Altendahl, in order to have all request be uniform to make planning easier. (See Altendahl Column 2)

27. With respect to Claims 3 and 4: Borgeson and Altendahl disclose the use of templated for requests but do not specifically disclose the template is based on a previous booking or a previous confirmed booking. However, the specific type of information the template is based on is deemed to be nonfunctional descriptive material and is not functionally involved in the system. A system is limited to the structural limitations and functionalities of the structure, therefore the information a template is based on does not affect the function of the Borgeson and Altendahl system. The system using templates for booking request would be function the same way regardless of what type of information the templates are based on. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F .2d 1381, 1385, 217 USPQ 401, 404 (Fed.Cir.1983); *In re Lowry*, 32 F .3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Response to Arguments

28. Applicant's arguments with respect to claims 1-8, 13-16 and 52-82 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bains et al. (6,625,584) discloses the use of a maritime freight operation, with the use of a user, an agent and a central controller.

30. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

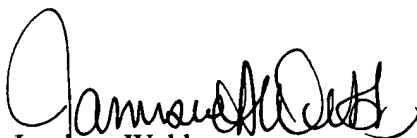
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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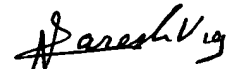
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (571) 272-6811. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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